

Office Action Summary**Application No.**

10/588,160

Applicant(s)

BOERSTOEL ET AL.

Examiner

N. EDWARDS

Art Unit

1794

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 September 2008.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3, 5-10, 12 and 13 is/are pending in the application.
4a) Of the above claim(s) 6-10 and 13 is/are withdrawn from consideration.
5) ☒ Claim(s) 1-3 and 5 is/are allowed.
6) ☒ Claim(s) 12 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.
4) ☒ Interview Summary (PTO-413)
Paper No(s)/Mail Date: 10/23/08.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

1. Applicant's arguments filed 9/29/08 have been fully considered but they are not persuasive.

Applicant urges that 1) Hu at least fail to teach a multifilament fiber comprising at least 5 filaments as recited by claims 12.

Page three of the rejection states Hu teaches the composite is made into fibers (which includes yarn and multifilament fibers). On one hand, the Primary Examiner cited two patent which show the forgoing in US 6,068,919 and 6,114,037 one of which was one patent was prosecuted by the Primary Examiner and Oliff & Berride. On the other hand, Textile dictionary show the term fiber(s) includes yarns and a multifilament is a yarn made from fibers (filaments). Thus one having ordinary skill in the art reading Hu supra would recognize that the term fibers encompasses yarns and multifilament with more than one fiber, which meet claim 12 supra. Thus the rejection is maintained.

Allowable subject matter:

Claims 1, 2, and 6 are allowable. Claims 6—10 and 13 are withdrawn and should be canceled by applicant to place the case in a better condition for allowance.

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless —

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claim 12 is rejected under 35 U.S.C. 102(b or a) as being clearly anticipated by Hu (WO 03085049 A1) alone or optionally taken with Johnson (WO 0380513 A2) for reason of record.

2. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication should be directed to Primary Examiner Edwards at telephone number (571)272-1521.

/N Edwards/
Primary Examiner
Art Unit 1794